THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date: 25-04-2007

WRIT PETITION No. 3522 OF 2007

BETWEEN:

S.Ganga Narsaiah & others.

…Petitioners

And

A.P.State Civil Supplies Corporation Limited,
Rep.by its District Manager, Karimnagar District.

…Respondent.

ORDER:

The petitioners question the notice dated 20-1-2007 issued by the respondent restricting the beneficiary period up to 31-3-2007 in respect of the petitioners' tenure as Stage II contractors and cancelling the tenure as Stage-II beneficiary from 1-4-2007 as illegal, arbitrary and contrary to the scheme of the Government to help the beneficiaries to transport the essential commodities from MLS points to different Fair Price Shops.

It is stated that the petitioners belong to SC/ST/BC and Minority community and they purchased vehicles such as Cabstan and tractors by raising loans from the Financial Corporations as well as Banks under the beneficiary scheme. The respondent decided to help the beneficiaries under the scheme and permitted them to transport the essential commodities from MLS points to different fair price shops in the District as Stage-II transporters. While so, the respondent issued the impugned notice restricting the period of beneficiary scheme up to 31-3-2007 and cancelled said scheme with effect from 1-4-2007. It is stated that petitioners can participate in the

fresh tenders for appointment of Stage-II contractors for the financial year 2007-08, which will be called for within a short period.

The learned counsel appearing for the petitioners contended that the petitioners are supplying essential commodities in the District for the rates fixed by the authorities and they are serving the corporation from the last 17 years. If the scheme is restricted, they will suffer serious irreparable loss and therefore, the impugned notice is illegal, arbitrary and contrary to the scheme to help the petitioners who are jobless persons.

A counter has been filed by the respondent, stating that during 1983 SC/ST/BC and Minority uneducated youth were given loans for the purpose of purchasing vehicles such as Cabstan and Tractors by arranging loans from SC/BC and State Financial Corporation and from Nationalised Banks under the scheme. In order to create some employment and support to earn livelihood and pay back the loan amount, the Corporation has entrusted Stage-II transportation work to transport the essential commodities namely rice, sugar, wheat etc., from Mandal level Godowns to fair price shops since 1991. The petitioners availed the said benefit and repaid the loans and if anybody failed to repay the loan, it is stated that such persons cannot be encouraged. The petitioners had taken support of the Corporation since 16 years and become self sufficient and financially sound, therefore, the Corporation

has given them a chance to participate in the tenders equally with other tenderers.

It is further stated that during 1991, the petitioners were paid Rs.2.00 per quintal up to 8 Kms., and 0.10 paise extra to each Kilometer. Subsequently, transportation charges were increased and paid at Rs.3.00 per quintal up to 8 Kms., and 0.15 paise extra for every Kilometer and thereafter enhanced the rate of Rs.4.50 per quintal up to 8 Kms., and 0.23 paise extra for every kilometer. In view of the said beneficiary scheme, loans have been repaid and the petitioners are entitled to compete with others.

It is stated that the Corporation has given them support since last 17 years and they are not eligible to continue as beneficiaries for any further period. It is stated that out of 11 petitioners, petitioner Nos.2, 7 and 10 filed their tenders along with others and petitioner Nos.2 and 7 became the lowest tenderers. It is further stated that as per the tender conditions, they should have at least two trucks with a total capacity of 20 Metric tons and the petitioners being the beneficiaries can form a group of three or four persons and file tender under their partnership.

It is stated that in fact, the Corporation is paying Rs.4.50 per quintal up to 8 Kms., and 0.23 paise extra for every additional kilometer per quintal from December, 2004 onwards, but whereas, the Stage-II Transport Contractors are being paid

the lesser rates comparatively as per the quoted rates in the tenders for the period 2005-07. Therefore, it is incorrect to state that the petitioners are transporting essential commodities at the lesser rates. It is stated that the aim of the Government is to give support by entrusting the transportation work till they completely repay the loan and they should survive independently afterwards as they become owners of the vehicles. It is stated that the petitioners repaid the loan and they became owners of the vehicles and therefore, they are not entitled for continuation of the said scheme.

This writ petition is filed only with regard to the restriction of beneficiary scheme and cancelling the said scheme with effect from 1-4-2007. Admittedly, respondent has not issued any notice before issuing the impugned notice dated 20-1-2007 showing the cause or reason as to why the beneficiary scheme shall not be restricted up to 31-3-2007 alone and as to why the Stage-II beneficiary scheme will not be cancelled from 1-4-2007. The petitioners have been transporting essential commodities as Stage-II contractors as per the rate sanctioned by the Corporation and therefore, I am of the opinion that they are entitled for a notice before taking away the existing right conferred in their favour so as to submit their explanation as to whether the scheme formulated by the respondent can be discontinued by the respondent without approval of the competent authority namely Board of Directors of the Corporation as the scheme was formulated by the Andhra

Pradesh State Civil Supplies Corporation, but not by the District Manager of Karimnagar District who has issued the impugned notice.

The reference mentioned in the impugned notice goes to show that the Vice Chairman and Managing Director of Andhra Pradesh State Civil Supplies Corporation Limited, Hyderabad has instructed that the beneficiaries for loan schemes who have repaid their loans would compete on par with others and imposed a condition that they should have at least two trucks with a total capacity of 20 Metric tons.

As the impugned notice is the final order in its nature, without issuing any show cause notice restricting the beneficiary scheme up to 31-3-2007 and canceling the tenure of Stage-II beneficiary scheme with effect from 1-4-2007, the impugned notice is set aside only on the ground that the said notice violates the principles of natural justice.

The writ petition is accordingly disposed of permitting the petitioners to file an explanation treating the impugned notice as show cause notice within 10 days from the date of receipt of copy of this order and on receipt of the explanation if any, the respondent may consider and dispose of the same by passing final orders in accordance with law.

V.ESWARAIAH,J

Date: 25-04-2007.

Shr.